

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Telecommunications Division  
Public Programs Branch\***

**RESOLUTION T-16569  
December 11, 2001**

**R E S O L U T I O N**

RESOLUTION T-16569. TO APPROVE THE PROPOSED RICHARD HEATH AND ASSOCIATES, INC. CONTRACT, TO CONDUCT INTERIM MARKETING PROGRAM PHASE II, FOR THE AMOUNT OF \$4,983,241.

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**SUMMARY**

This resolution adopts the proposed contract (contract) with Richard Heath and Associates, Inc. (RHA), to conduct the Interim Marketing Program Phase II, for a twelve (12) month term and for the amount of \$4,983,241. The contract will enable RHA to design and to implement a competitively neutral public awareness and outreach program in order to increase Universal Lifeline Telephone Service (ULTS) subscribership. Increased ULTS subscribership will increase awareness of the ULTS program to all low-income households and inform and promote the utilization of the ULTS in all eligible markets. The Interim Marketing Program Phase II will “piggy-back” on the success of the initial marketing efforts.

**BACKGROUND**

**Decisions 96-10-066 and 97-12-105**

The California Public Utilities Commission (Commission) established the ULTS program in 1983 in response to the enactment of Public Utilities (PU) Code § 871, et seq., also known as the Moore Universal Telephone Service Act. The purpose of the ULTS program is to provide low-income households with access to affordable basic telephone service. In Decision (D.) 96-10-066, the Commission created the Universal Lifeline Telephone Service Marketing Board (ULTSMB) to serve as the entity

responsible for marketing of the ULTS program.<sup>1</sup> Pursuant to D.96-10-066, the ULTSMB was required to develop an annual budget for marketing the ULTS program, devise competitively neutral marketing strategies, and oversee the implementation of ULTS marketing campaigns. Additionally, in D.97-12-105, the Commission adopted a charter for the ULTSMB.

**PU Code 270, et al.**

In October 1999 the Governor of the State of California signed the California Senate Bill (SB) 669 into law. The provisions of SB 669, as amended by SB 742 in 2001, are codified as Chapter 1.5 (beginning with Section 270) to Part I, Division 1 of the PU Code. PU Code Section (a) (3), provides for creation of the ULTS Administrative Committee Fund in the State Treasury. The major requirements of SB 669, as amended by SB 742, which have been included in the PU Code, are as follows:

- a) Section 277 (a) provides for the creation of the Universal Lifeline Telephone Service Trust Administrative Committee as an advisory board to develop, to implement and to administer the ULTS program.
- b) Section 277 (b) provides that all revenues collected by the telecommunications carriers authorized by the Commission to fund ULTS program shall be submitted to the Commission on a schedule established by the Commission.

Beginning on October 1, 2001, and thereafter, the Commission shall transfer the money received and all unexpended revenues collected prior to October 1, 2001, to the State Controller for deposit in the ULTS Trust Administrative Committee Fund.<sup>2</sup>

- c) Section 273 (a) provides that the ULTS advisory board submit an annual budget to the Commission. The Commission will have ninety (90) calendar days, from the date the budget is received, to approve the budget.
- d) Section 274 provides for the financial and compliance audits of the ULTS program costs and activities at least once every three years, beginning July 1, 2002.<sup>3</sup>

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<sup>1</sup> The Commission Decision D.96-10-066 established the Universal Lifeline Telephone Service Marketing Working Group (ULTSMWG). D.97-12-105 concluded that the responsibilities of the ULTSMWG, as described in D.96-10-066 and as amended by D.97-12-105, were more consistent with those entities considered to be "advisory boards" to the Commission rather than with entities the Commission considered to be "working groups". Therefore, in order to better reflect the ULTSMWG's responsibilities, D.97-12-105 changed the name of the ULTSMWG to the Universal Lifeline Telephone Service Marketing Board, also known as the ULTSMB.

<sup>2</sup> Section 277 of the Public Utilities Commission Code as amended by SEC. 21 of SB 742.

<sup>3</sup> Section 274 of the Public Utilities Commission Code as amended by SEC. 18 of SB 742.

Pursuant to D.01-09-064, in order to implement SB 669 within the timeframe established by SB 742, a new charter was adopted on an interim basis for the ULTSMB advisory board. This charter went into effect on October 1, 2001. According to the charter, the ULTSMB shall prioritize its recommendations to reflect the most pressing needs of the ULTS program, including proposals for expenditures of 80% of the marketing budget on campaigns designed to bring basic telephone service to qualifying households currently without telephone service. The remaining 20% shall be earmarked to increase ULTS participation among households with phone service that qualify, consistent with the mandate of PU Code § 871.5 (c).

Finally, in line with the aforesaid revisions, staff of the Telecommunications Division (TD) shall oversee the contract administration in coordination with the ULTSMB, in its advisory role, will advise the Commission on ULTS program marketing activities.<sup>4</sup>

### **Current Marketing Program Activities**

Valdez and Associates has been conducting a market research study for the ULTS program in 2001 (Resolution (R) T-16496, dated February 8, 2001). This study will identify the types of households that are without telephone service and those with telephone service but not using the ULTS program, demographic data for each group and other factors which may affect an individual's choice in selecting to participate in the ULTS program.

Sjoberg Evashenk Consulting has started to assess the Interim Marketing Program Phase I (R. T-16555, dated August 23, 2001). The assessment of the Interim Marketing Program Phase I will identify and evaluate the methods and strategies used in the Interim Marketing Program Phase I by the contractors, sub-contractors, community-based organizations, and the Call Center to reach and sign up un-served eligible ULTS subscribers. The findings of this study will be used to assist the ULTSMB in developing a permanent marketing plan.

In addition to this Interim Marketing Program contract, RHA is awaiting the approval of the Commission and the Department of General Services (DGS) for the Call Center Contract (proposed R. T-16606). The Call Center Contract will enable RHA to operate a multi-lingual call center, serving as an educational resource and a competitively neutral referral source for potential ULTS customers.

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<sup>4</sup> Decision 01-09-064 adopted a ULTSMB charter stating that the board is responsible for advising the Commission on the marketing of the ULTS program.

## **Adopted Budgets**

The Commission adopted a revised budget for Marketing Program activities, including \$4 million for the last eight months of fiscal year 2001-02 (R.T-16594 dated October 10, 2001). The Commission also adopted a \$5 million budget for fiscal year 2002-03 marketing activities (R.T-16561 dated October 25, 2001).

## **NOTICE/PROTESTS**

The proposed Interim Marketing Program Phase II contract with RHA was filed with the TD of the Commission on June 6, 2001. Notice of the filing was posted on the Commission Daily Calendar on July 3, 2001. No comment or protest has been received to date.

## **DISCUSSION**

The proposed contract with RHA will be for a twelve (12) month term and for the maximum amount of \$4,983,241 if sufficient funds are made available for this purpose. RHA shall provide the marketing and outreach services as detailed in the body of the contract for the ULTS Interim Marketing Campaign as requested by the Commission. RHA shall provide the following services:

- a) Design and implement a competitively neutral public awareness and outreach program to increase ULTS subscribership.
- b) Increase awareness of the ULTS program among low-income households, individuals, and organizations serving low-income households.
- c) Promote utilization of ULTS in all eligible markets, stressing the benefits of having basic telephone service.
- d) Implement a marketing program within California that focuses on those segments of the population that current data suggests have lower telephone penetration rates. The Interim Marketing Program will include language and culture specific advertising and outreach programs to heighten awareness of the ULTS program among the following target groups: African-American, Cambodian, Chinese, Filipino, Hispanic, Hmong, Korean, Laotian and Vietnamese.
- e) Create multi-lingual and multi-cultural marketing and outreach campaigns specifically designed to inform and educate those groups identified above, in

order to increase telephone penetration to 95% among all groups by means of increased ULTS subscribership by eligible households.

- f) Utilize services of the ULTS Call Center to enroll eligible customers.
- g) Utilize Community Based Organizations (CBOs) in an effective and cost-efficient manner to educate low-income households about the ULTS program.
- h) Design and implement a community and statewide media campaign that utilizes ethnic or language specific newspapers, community radio, local access television, etc.
- i) Use existing materials in promoting ULTS and, where necessary, develop new materials.<sup>5</sup>
- j) Coordinate outreach efforts with the ULTS Call Center contractor to ensure the dissemination of reliable and accurate information regarding ULTS eligibility and how to obtain telephone service to potential customers.

RHA shall perform the work at its place of business and shall meet with the TD Project Manager or Liaison according to the schedule proposed in the body of the contract. RHA shall submit a written progress report and invoice no later than the 5<sup>th</sup> day of the following month and will work in cooperation with the TD Project Manager or Liaison in developing a report format that will be acceptable to the ULTSMB and the Commission. The contract must begin no later than 60 days after approval by the Commission and DGS.

After review of the proposed contract with RHA, TD found that the proposed contract contains the relevant elements of a contract, is reasonable, and meets the state contracting rules. However, TD recommends that the adoption of the proposed contract with RHA should be modified as follows:

1. Under "Schedule of Activities", second paragraph, on page 5 of the contract proposal states:

"The following dates assume that work will begin on or after September 12, 2001. For each day of delay in starting due to lack of an approved Contract by the CPUC [Commission], the Contractor [RHA] may add one day to all due dates specified in this schedule. All work must be completed by September 12, 2002 or twelve months from the start date."

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<sup>5</sup> The ULTSMB and the Director of TD approve all new materials and media items before release.

To accommodate probable changes to the starting date, this paragraph should be replaced with:

“The contract must begin no later than 60 days after approval by the Commission and DGS. All work must be completed twelve months from the start date”.

Accordingly, the schedule referred to on this page should be rewritten to reflect this change.

2. Section 12-D, page 9 of the contract proposal states:

“Progress payments will be made monthly, in arrears, or at clearly identifiable stages of progress based upon written progress reports submitted by the Contractor’s [RHA] invoice for work previously completed. Ten percent (10%) shall be withheld from each invoice including billable hours and expenses. The retention shall become payable upon the satisfactory completion of the agreement or at the completion of each separate and distinct task if the specific task is not a foundation for succeeding tasks leading to the completion of a finished project, report or plan. Contractor [RHA] must submit a separate invoice for payment of retention.”

This paragraph should be replaced with:

“Progress payments shall be made monthly, in the following month, based upon written progress reports submitted by the RHA with the RHA’s invoice for work previously completed. Ten percent (10%) shall be withheld from each invoice including billable hours and expenses. The retention shall become payable at the satisfactory completion of each stage, subject to the written approval of TD. The two stages are as follows: Stage 1. Satisfactory completion and presentation to ULTSMB of the “Mid-Year Campaign Report” Activity/Task; Stage 2. Satisfactory completion and presentation to ULTSMB of the “Final Report “ Activity/Task as listed under section 6, “Schedule of Activities”, of the contract. RHA must submit a separate invoice to TD for release of the retention.”

This change will set clear criteria for task accomplishment and expectations and relevant retained funds release.

3. Page 33, 2<sup>nd</sup> line from the bottom of the RHA contract proposal states:

“Since many Asian Americans are immigrants, they tend to rely heavily on in-language media”.

TD believes that the above statement needs to be improved and the term “immigrant” should be substituted with a more relevant and specific term. Hence, TD recommends that this sentence should be replaced with:

“Since many Asian-Americans are first generation Americans, they tend to rely heavily on in-language media”.

4. Page 38, 3<sup>rd</sup> line of the contract proposal states:

“We will hand out prepaid phone cards, for use in calling their home country”.

It should be replaced with:

“We will hand out prepaid phone cards with a ULTS promotional voice message for use in long distance calling such as calls to their home country”.

These changes are necessary because of the following reasons:

- a) These telephone cards will be specifically programmed to include a promotional ULTS related voice message to be heard each time they are used to call a number, and
  - b) The recipients of these telephone cards can neither be restricted from making calls to their home country nor is it of any importance to the ULTS program to limit them to these calls.
5. Due to revisions made to the ULTSMB charter, which defines the ULTSMB as an advisory body, the Commission Executive Director, on behalf of the Commission, should sign the contract with approval of DGS.

### **CONTRACT TERM AND BUDGET**

The term of this contract shall be twelve (12) months contingent upon the availability of ULTS funds for the purpose of this program and subject to the schedule of activities. TD, in concert with the ULTSMB, may extend the term of this contract by giving RHA a

written notice of not less than sixty (60) days before the end of the initial term. In addition, this contract is subject to any additional restrictions, limitations or conditions enacted by the Commission and/or legislature which may affect the provisions, terms, or funding of this contract in any manner, unless earlier terminated by the Commission in accordance with the termination provisions contained in the contract. The maximum amount of this contract shall not exceed \$4,983,241.

RHA shall file with the Director of TD, within 15 days from the effective date of this resolution, an amended contract to incorporate modifications discussed in this resolution. This contract is of no force or effect until signed by RHA and the Commission Executive Director and approved by DGS. RHA may not commence performance until appropriate approvals are obtained and written notification is received from the Director of TD.

### **COMMENTS**

The draft resolution with regard to Interim Marketing Program Phase II contract was mailed on November 9, 2001, in accordance with the Public Utilities Code § 311 (g) to the parties in R.95-01-020/I.95-01-021 and R.98-09-005, the members of the Universal Lifeline Telephone Service Trust Administrative Committee and ULTSMB. TD received no comments on the draft resolution.

### **FINDINGS**

1. In October 1999, the Governor of the State of California signed the California Senate Bill (SB) 669 into law, the provisions of which, as amended by SB 742 in 2001, are codified as Chapter 1.5 (beginning with Section 270) to Part I, Division 1 of the Public Utilities Code.
2. Pursuant to the California Public Utilities Commission (Commission) Decision 01-09-064, in order to implement SB 669 within the timeframe established by SB 742, a new charter was adopted on an interim basis for the Universal Lifeline Telephone Service Market Board (ULTSMB) as an advisory board, effective on October 1, 2001.
3. All the references made in the body of the contract to the "ULTSMB" as the signatory party to this contract, are to be changed to the "Commission", on behalf of which, the Commission Executive Director will be the signatory.



4. Due to the new advisory role of the ULTSMB, a new agreement contract form needs to be signed by Richard Heath and Associates, Inc. (RHA) as the Contractor and the Commission Executive Director with the approval of Department of General Services (DGS).
5. Telecommunications Division's (TD) recommendations, as discussed in this resolution, are reasonable and should be adopted.
6. The proposed contract, subject to the approval of DGS, meets the State contracting rules.
7. The proposed RHA Interim Marketing Program Phase II contract, as contained in Appendix A of this resolution, for a twelve (12) month term, in the amount of \$4,983,241, is reasonable and, after modifications stated in the "Discussion" section incorporated in the body of the proposed contract, should be adopted.
8. RHA should file with Director of TD within 15 days from the effective date of this resolution an amended contract incorporating the modifications discussed in this resolution

**THEREFORE, IT IS ORDERED that:**

1. The contract with Richard Heath and Associates, Inc. (RHA), as contained in Appendix A of this resolution for the Interim Marketing Program Phase II is adopted subject to the modifications/clarifications set forth in this Resolution.
2. The contract with RHA for the Interim Marketing Program Phase II shall be in effect for a period of twelve (12) months from the effective date of this resolution.
3. The maximum amount of this contract is \$4,983,241.
4. The contract amount cannot be changed and the term of this contract cannot be extended, unless specifically authorized by the California Public Utilities Commission (Commission). If funding for any fiscal year is reduced or deleted by the Commission for purposes of this program, the Commission shall have the option to either cancel this contract with no liability occurring to the Commission, or offer a contract amendment to contractor to reflect the reduced amount.
5. The Director of the Telecommunications Division (TD), in concert with the Universal Lifeline Telephone Service Marketing Board, shall have the option to

extend this contract by submitting a notice to RHA no less than sixty (60) days before the end of the initial contract term. In addition, this contract is subject to any further restrictions, limitations, or conditions enacted by the Commission and/or the California Legislature which may affect the provisions, terms, or funding of this contract in any manner, unless earlier terminated by the Commission in accordance with the termination provisions contained in paragraphs 40-41 of this contract as attached in Appendix A to this Resolution.

6. This contract is not effective or enforceable until signed by RHA, the Executive Director of the Commission and approved by the Department of General Services (DGS). RHA may not commence performance until approvals are obtained from the DGS and written notification is received from the Director of TD.
7. No amendment or variation of the terms of this contract shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in the contract is binding on any of the parties.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 11, 2001. The following Commissioners approved it:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN  
Executive Director

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
RICHARD A. BILAS  
CARL W. WOOD  
GEOFFREY F. BROWN  
Commissioners

## **APPENDIX A**

### **1. Contract No. ULTSMB012001**

The above document is incorporated herein by reference. Copies are not appended to this resolution. Copies of this document may be obtained by contacting the Telecommunications Division at 415-703-1638.